IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 655 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HANSABEN YOGESHBHAI VANVI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 655 of 2002

MR SHAKEEL A QURESHI for Petitioner No. 1

MRS HANSA PUNANI, APP fsfor Respondent No. 1

MS YAMINI J DESAI for Respondent No. 2,4

RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE R.P.DHOLAKIA

Date of decision: 15/11/2003

C.A.V. JUDGEMENT

Present petition has been filed by the petitioner

against the order dated 12-8-2002 passed by the learned Judicial Magistrate (First Class), Porbandar in Cri.Misc.Appln.No.501 of 2002 whereby the prayer made by the petitioner for issuance of warrant under Sec.97 of the Code of Criminal Procedure was rejected.

2. The petitioner, the widow of late Shri Yogeshbhai Vanvi, who prematurely died in an accident, has received an amount of Rs.5.00 lacs (Rupees Five Las only) towards the LIC policy amount being the widow of victim and the natural guardian of minor son and daughter. Said amount has been deposited in the joint name of the petitioner and her father-in-law, the respondent No.2 herein, in National Savings Scheme with the Junagadh Post Office, Junagadh. During the pendency of this petition, since said National Savings Certificates have matured, this Court had ordered for reinvestment of the maturity amount of Rs.10.00 lacs (Rupees Ten Lacs only) keeping in the mind the interest of the widow and her minor children. It was directed that Rs.6.00 lacs be invested in the same name for the period wherein the amount can be doubled and remaining amount of Rs.4.00 lacs was directed to be invested in the monthly income scheme. The interest accruing thereon was ordered to be deposited in a separate joint account to be opened in the name of petitioner as the first holder and the name of respondent No.2 as the second holder in the interest of concerned parties keeping open the rights of the parties. Thereafter, the aforesaid amount was reinvested with the Post Master, Junagadh and xerox copies of the fixed deposit receipts are produced on record of Cri.Misc.Appln.No.2439 of 2003 filed in Special Criminal Application No.655 of 2002 and specific order was passed by this Court on 4-8-2003 in said application and said application was disposed of vide order dated 9-10-2003.

3. At this stage, learned counsel for the petitioner, Mr.Shakeel A.Qureshi, seeks permission to withdraw this petition with a liberty to file appropriate proceedings under the Guardian and Wards Act for getting the custody of minor Hemang who is admittedly staying with the respondent No.2 i.e. the grandfather of minor Hemang and also for getting the LIC amount which has been reinvested with the Post Master, Junagadh, and the interest accrued on the said amount. Otherside has no objection for the same.

4. Permission is granted as prayed for. This petition stands disposed of as withdrawn. Liberty is granted as sought for. Rule is discharged. In the event of preferring appropriate proceedings before the court

below, the court below shall decide the same as expeditiously as possible and the averments made in this petition and various orders passed by this Court in this matter will not come in the way of the parties in deciding them. Liberty to move in case of difficulty.

(R.P.DHOLAKIA,J.)

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